



Missouri Department of Natural Resources

MINUTES

MISSOURI SOIL AND WATER DISTRICTS COMMISSION

DNR CONFERENCE CENTER

Jefferson City, Missouri

January 23, 2003

COMMISSION MEMBERS PRESENT: Elizabeth Brown, Larry Furbeck, Philip Luebbering, Kirby VanAusdall

EX-OFFICIO MEMBERS: DEAN THOMAS PAYNE, UNIV. OF MISSOURI: David Baker; **JERRY CONLEY, DEPT. OF CONSERVATION:** Bob Miller

ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION PROGRAM: Sarah Fast; NRCS: Roger Hansen; MASWCD: Eli Mast

STAFF MEMBERS PRESENT: Davin Althoff, Gary Baclesse, Milt Barr, Gorman Bennett, Brad Berhorst, Jim Boschert, April Brandt, LeAnn Bullard, Chris Evans, Noland Farmer, John Forsyth, Rose Marie Hopkins, Wyn Kelley, Gina Luebbering, Marcy Oerly, Teresa Philbert, James Plassmeyer, Josh Poynor, Jeremy Redden, Ron Redden, Kevin Scherr, Alice Schultz, Judy Stinson, Ken Struempfler, Bill Wilson

OTHERS PRESENT: DISTRICTS: BARTON: Ben Reed; RANDOLPH: Shelly Sumpter; STE. GENEVIEVE: Kate Keeley; STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE: Harry Bozoian, Shannon Haney; DEPT. OF NATURAL RESOURCES: Denise Evans; **OTHERS:** MASWCD: Peggy Lemons; NRCS: Dick Purcell; **INDIVIDUALS:** Tom and Linda Ziegler

A. CALL TO ORDER

Chairman Elizabeth Brown called the meeting to order at the DNR Conference Center in Jefferson City, Missouri, in the Bennett Spring/Roaring River Room at 11:00 a.m.

B. MINUTES OF THE LAST MEETING

Larry Furbeck made a motion to approve the minutes of the December 2, 2002, commission meeting as mailed. Philip Luebbering seconded the motion. In response to the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted to approve the motion. The motion passed unanimously.

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C. PLANNING

1. Information/Education Grant Committee Report

Jim Plassmeyer reported on the Information/Education (Info/Ed) Grant Committee's work with regard to the core re-direct funds from the Loan Interest-share Program to be used on a competitive information education program in Fiscal Year 2004 (FY2004). The committee consisted of a district employee, district supervisor, two Natural Resources Conservation Service (NRCS) employees, David Baker, Judy Stinson, and Mr. Plassmeyer.

The committee looked for the answer to four questions. The first question dealt with the target audience. The committee felt that the districts should identify the target audience and base that decision on need. As long as the proposal described a program that fell within the missions of the district and commission, the funds could be spent on any group. The second question was in reference to the application and ranking process. It was felt that a scoring system should be set up before proposals were requested. The third question addressed what natural resource guidelines the proposals needed to address. The committee felt the guidelines should be broad as long as the proposals were soil and water conservation related.

The final question dealt with the guidelines for the expenditure of funds. The committee recommended that annual meetings should not be eligible expenses for these funds. It was also recommended that only equipment that enhanced a district's info/ed program should be allowed. A poster contest could be funded if it was new to the district or had something new incorporated in the presentation. The committee also recommended that a limit of \$10,000 for a salary be set and would only be available to districts that had no previous info/ed person and should only cover a part-time employee. The need for a full-time employee would stimulate the need for partners to provide funds for the rest of the employee's time. Two more suggestions were to limit the total funds for salaries to 30 percent and allow grazing schools to be an eligible expense with a limit of \$30 per person if new to the district.

In response to Elizabeth Brown, Mr. Plassmeyer said that the salary would be limited to an Information-Education position. He clarified that the salary could cover one-half of a full-time employee as long as one-half of the person's time was devoted to information and education issues. When asked, he said that no cap on funds had been discussed. David Baker said that one of the options the committee had explored was the criterion to use in distributing the funds to the districts. A small amount to each district would not accomplish much. Mr. Baker said that the current Environmental Quality Incentive Program (EQIP) Educational Assistance Program, managed by the University of Missouri, in cooperation with MDC, NRCS, county soil and water conservation districts (SWCD), Department of Natural Resources (DNR) had approved funding for

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approximately \$125,000 in educational projects out of the \$250,000 in proposals received. The districts are not able to use these EQIP funds for salaries or the purchase of equipment.

Mr. Plassmeyer said that it had not been determined who would review the applications but it would probably be an entity similar to the Special Area Land Treatment (SALT) Program Review Committee. Ms. Brown complimented the committee on a thorough job of studying the issue.

Mr. Baker said that the largest projects funded this year with EQIP funds amounted to \$10,000. However, he cautioned that this was the maximum and, if all of the funds were used to cover salaries, the district would be left with no resources. Mr. Luebbering felt the commission should discuss this issue after the applications had been received from the districts. Sarah Fast said that the committee discussed encouraging the districts to work with each other on the applications. She felt that, in that scenario, an application could conceivably exceed a \$10,000 limit. Dave Baker pointed out that multiple districts sharing expenses had produced videos. Philip Luebbering suggested the commission see the applications that would be submitted before making a decision on a maximum amount of funds a district could receive.

2. USDA Office Closures

Jim Boschert reported that program staff had been advised that USDA was planning to close 200 offices across the United States. At this time, Jim introduced Roger Hansen, to update the commission. Roger Hansen reported that not many details were known at the time of the commission meeting but had been confirmed at a meeting in Washington, D.C., on December 18. However, he had not yet learned which offices or how many would be closed in Missouri. He felt this information would be known sometime in the spring or summer.

Mr. Hansen reported that, nationally, approximately 100 offices of the 1,100 offices that were scheduled to be closed in 1995 never closed for various reasons. He thought that those offices might be closed this time. If that proved to be what happened, Missouri would then have a share in the remaining 100 offices since all scheduled closings in 1995 for Missouri were carried out. He felt that offices that held only one federal office and/or were located closer than 25 miles to another office could be vulnerable to closing. Also, offices that had less than three full-time employees could be vulnerable. He clarified that NRCS could count full-time district employees. Mr. Hansen said that he would notify the commission as soon as he had the final instructions from Washington.

Mr. Boschert then reviewed commission policy regarding this issue. The commission supported and recognized stand-alone districts in FY1995 when there

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were USDA office closings. At that time, the amount of state dollars that could be used for rent and utilities was limited to \$4,424. The limit was removed totally by the commission in December of 2002. Mr. Boschert reported that any costs associated with maintaining an office would have to come from the district's current allocation or local funds.

Roger Hansen said that NRCS would designate any SWCD offices affected by closings as a non-federal work location. This would allow NRCS to provide equipment, such as computers, to these offices. They would also be able to keep cooperator files in those offices and NRCS personnel could report to them and do their work in the district office. However, NRCS would not be able to pay the rent or designate them as official headquarters for any NRCS personnel.

3. NRCS Technical Service Providers Report

Jim Boschert reported that the new Farm Bill allowed individuals, entities, and public agencies certified by the State Conservationist to be on an approved list to provide technical assistance to program participants. Jim then introduced Roger Hansen to give an update on this issue.

Roger Hansen reported that the rule had not been finalized so he could not provide the parameters for the commission at the time of his report. He said that this was part of the Farm Bill and that there was a lot of interest in giving the private sector an opportunity to help meet the additional workload created by the new Farm Bill. He said that competitive sourcing was a part of the President's Management Initiative and was designed for the private sector to compete with federal employees to see who could do the job for the least amount of money. Mr. Hansen said that he was to study 24 positions in order to determine whether or not the private sector could do the same job for less money and the positions would be contracted out if the private sector proved to be less expensive.

Mr. Boschert reported that the provider of technical services would assume all legal responsibility for the quality of the work and, thus, could increase the liability to the district. Missouri Public Entity Risk Management, the liability insurance provider for most districts, is researching whether or not the liability insurance currently carried would be able to cover the district as a technical service provider.

Roger Hansen felt that the final rule would address some of the issues that had been raised. He said that the competitive bid process would probably be available to private sector employees only because any entity receiving any government funds would be unfair competition for the private sector.

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However, there could be cooperative agreements with the districts, such as the contribution agreement, which would allow NRCS to enter into agreements with the districts and state agencies. Larry Furbeck suggested that the liability issue of each contract would have to be studied. Mr. Hansen thought that the Contribution Agreement would cover shared liability. However, when someone was hired through open competition, the liability would lie solely with that person or business.

4. Review of the Order of Rulemaking for Chapter 8 – State Funded SALT Program 10 CSR 70-8.010 through 10 CSR 70-8.120

Marcy Oerly presented the Order of Rulemaking for the new proposed SALT rules that were published in the December 16, 2002, *Missouri Register*. Ms. Oerly briefly reviewed the history of the SALT Program and the timeline for the Order of Rulemaking for the commission. In FY2002 a stakeholders group had been formed to review and comment on draft rules that were developed to transition the program from a pilot to a permanent program. She also informed the commission that after a 30-day comment period, no comments had been received.

Philip Luebbering made a motion to give approval to proceed with the Order of Rulemaking as written. Larry Furbeck seconded the motion. Sarah Fast pointed out that no comments had been received on this rule change. When asked by the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted in favor of the motion. No opposition was voiced when called. The motion carried unanimously.

D. REVIEW/EVALUATION – LAND ASSISTANCE SECTION: COST-SHARE

1. Monthly Cost-share Usage and Fund Status Report

Noland Farmer reported on the cost-share usage for FY2003 as of December 31. The districts had obligated 77 percent or \$18.4 million in the second quarter of FY2003 as compared to 75 percent or \$19.2 million in FY2002. In the same time frame, the districts had claimed 33 percent of the funds obligated or \$8.5 million in FY2002 and 35 percent or \$8.4 million in FY2003.

Including the additional allocations made available from FY2002 re-appropriated funds, approximately \$23.8 million was allocated for use in FY2003. The projected claims amounted to \$20.5 million of allocated funds for this fiscal year. Mr. Farmer reported that, as of January 21, \$9.4 million in claims had been received in the program office as compared to \$10 million received last year for the same time frame.

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2. **Dade, Ste. Genevieve, and Wright SWCDs: Exception to the DSP-3 Four-Consecutive Year Policy**

Marcy Oerly presented a request from the Dade, Ste. Genevieve, and Wright SWCDs asking for an exemption to the DSP-3 four-year participation limitation. Ms. Oerly briefly reviewed commission policy concerning the issue. She explained that the four-consecutive year period began the day the board approved the initial claim and no application could be approved after the four year limitation had ended.

Ste. Genevieve SWCD explained in a letter that the landowner originally installed the DSP-3 practice on approximately 35 acres in 1997 while the other half of his farm remained in row crops. However, the row crops had since been converted to grass. Ms. Oerly said that, without the addition of a well, it was not feasible to expand his grazing system. Given the commission's current four-year participation policy, the landowner would not be eligible for a planned grazing system with a well.

Wright SWCD had explained that the landowner's four consecutive year period ended in June 2002. The landowner made application for a DSP-3 practice in August of 2001 but, due to health problems, was unable to start the practice. In this case, he is not requesting a well but only additional pipeline and tanks. Ms. Oerly reported that the landowner had \$3,248 available for use out of the \$9,000 maximum.

Dade SWCD explained that their landowner's participation limitation ended in FY-2001. In this case, the landowner's original water source was located on his mother's farm, which bordered the south side of his farm. Due to his mother's death, her farm had been sold and, subsequently, the landowner had to haul water to those fields. The district said that the addition of a well would enable him to obtain a permanent water source and also add additional fields to his grazing system. There was \$7,332 available for use under the \$9,000 maximum.

Ms. Oerly reviewed the history of the DSP-3 practice and the commission's reasoning behind the four-consecutive year policy. She said that the commission had promulgated a rule change to exempt planned grazing systems from the excessive erosion requirement because it was developed as a demonstration practice. There are currently money and time restrictions as well as grazing school and soil fertility requirements for this practice in order to comply with the demonstration concept.

Mr. and Mrs. Tom Ziegler, landowners, and Kathryn Keeley, board member from Ste. Genevieve SWCD, appeared before the commission and provided aerial photographs of the Ziegler farm. Mr. Ziegler informed the commission that a DSP-3 practice had been installed on approximately 35 acres in 1996 and

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completed in 1997. The remaining 40 acres were cropland at that time. He said that, because of marginal soils, he had decided that it would be best to change over entirely to a grassland enterprise. However, the remaining 40 acres were located on a ridge top and a water source for these acres was a problem. Soil survey personnel told him that the soil on this acreage was not a good soil for ponds. It was reported that a pond was already located on this acreage but was marginal at best because it leaked and had gone dry in the past. He said that the only alternative for a water source was a well.

Mr. Ziegler said that, in order to get electricity in this area, a neighbor had to agree to an easement and, according to the estimate received from the electric company, it would cost approximately \$4,000 to run electricity to these fields. He had checked into EQIP but his score came in low under the new program. He felt the DSP-333 would solve their problems. The estimated total cost of a well for him was \$12,000 and the cost-share was estimated at \$4,400. Including the \$2,100 that was the cost-share on the original DSP-3, the amount of cost-share on the well, if approved, would bring the total to \$6,500.

Mr. Ziegler said that he was the first DSP-3 participant in Ste. Genevieve County and that numerous people had visited his farm in order to see how the DSP-3 practice worked. Many had since installed the practice on their own land. Mr. Ziegler pointed out that the landowners that applied after him were eligible for the DSP-333 practice but he was not eligible because of the four-year limitation.

When asked, Sarah Fast clarified that the four-year limit was a policy issue and was not in the exception rule and, also, that the word demonstration was in the rule but the definition of demonstration was in commission policy. Ms. Fast cautioned that the commission would need to justify that the lifting of the limitation would allow the practice to remain a demonstration practice. Larry Furbeck pointed out that the earlier cooperators had the benefit of the additional years of grazing that came from being one of the first farmers to implement the practice.

Kathryn Keeley reported that the Ste. Genevieve Board of Supervisors supported this request because it felt that the earliest cooperators in the DSP-3 were being excluded and did not understand why. Mr. Ziegler said that, had the DSP-333 been available during his four-year limitation, he would have applied for it. Eli Mast said that he understood demonstration practices had to have limitations since they did not meet the erosion standard. Sarah Fast reminded the commission that the Missouri Association of Soil and Water Conservation Districts (MASWCD) defeated a resolution to extend the four-year limit at the 2002 Training Conference because the supervisors felt that four years was a sufficient demonstration period.

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Philip Luebbering was concerned that approval of this request would generate numerous other requests. Mr. Ziegler suggested that landowners that were ineligible because of the time limit could be allowed one year to apply for the DSP-333. When asked, Mr. Hansen pointed out that diversified farms received more EQIP points. Ms. Keeley pointed out that landowners did not get EQIP points for practices already installed. Philip Luebbering again expressed his concern as to what would happen in the future if the commission approved these requests. Harry Bozoian suggested that approval be subject to additional requirements. Mr. Luebbering said he was considering extending the limit for one year only for the landowners that installed the practice in 1997 and 1998. Larry Furbeck expressed concern as to where it would end. He also said that the DSP-3 had convinced Mr. Ziegler that it was a very good practice, which was what it was supposed to do. Philip Luebbering felt that it would not be fair to approve one request and not all. In response to the commission, Sarah Fast said that there were very few landowners that had reached their dollar limit in DSP-3. The commission asked staff to research the number of DSP-3 claims that were submitted to the program office for payment in 1997 and 1998.

After discussion, it was the consensus of the commission to maintain current policy.

3. Follow-up on Cost-share for Berm Removal

Marcy Oerly briefly reviewed the cost-share data on berm removal across the state that had been requested by the commission. Ms. Oerly reported that 17 counties offered the berm removal component but only five of the seventeen had actually claimed cost-share on the component since FY2001. She said that 50 percent of the claims had costs that were within 25 percent of the earthmoving costs for the construction of the waterway and 16 percent of the claims had costs higher than the earthmoving costs.

Barton and Vernon SWCDs accounted for 82 percent of berm removal claims and Dade, Jasper, and St. Charles SWCDs accounted for the remaining 18 percent. Of the Barton SWCD claims, 70 percent were within 25 percent of the earthmoving costs and 25 percent had berm removal costs higher than the earthmoving costs. Of the Vernon SWCD claims 38 percent were within 25 percent of the earthmoving costs and 14 percent were higher than the earthmoving costs. Ms. Oerly reviewed the top ten districts that had submitted waterway cost-share claims in FY2002 and their county average costs for earthwork. Some districts calculated these costs on a per-acre basis and some districts used a cubic yard cost. Of the districts that used a per acre cost, Pettis SWCD had the highest county average cost for earthwork at \$2,210.94 and Barton had the lowest at \$1,187. However, when combined with its berm removal cost of \$1,136 per acre, Barton SWCD's county average cost totaled \$2,323 per acre. Vernon SWCD had

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the highest per cubic yard county average cost for earthwork at \$1.59 and a \$0.55 per linear foot cost for berm removal. Monroe SWCD had the lowest per cubic yard cost at \$1.31 per cubic yard.

Dick Purcell, State Conservation Engineer with NRCS, briefly reviewed the information he had gathered. He said that the counties using berm removal were following the NRCS policy that a berm over one foot in height was eligible for cost-share. He also said that the construction of a berm normally required almost all of the excavated dirt from the waterway. Often berms were not removed entirely but, in the counties that cost-share on berm removal, virtually all of the berm is removed within a three-year period. Normally, these berms were in areas that had to be crossed with equipment or had irrigation towers and, therefore, the berms couldn't be left for an extended period of time and allow the land to be effectively farmed.

Mr. Purcell found that the key factor in the apparent high cost of berm removal was what had to be done with the material when it was removed. According to Mr. Purcell, the dirt might have to be moved 60 to 100 feet and spread pretty thin. The districts where this occurred felt that this was a good use of cost-share dollars since it was an important part of their conservation plan. In Vernon and Barton Counties waterways consumed approximately 50 percent of their cost-share funds.

Larry Furbeck explained that concerned about the high berm removal costs because removing a berm from a waterway should be much more efficient, quicker, and cheaper than actually constructing the waterway. It was also a concern to commission that, based on the data that was presented, it appeared the amount of cost-share that was approved on the application was almost always exactly the same amount as what was being claimed for cost-share. Mr. Purcell pointed out that the berms in these counties were typically at least one and one-half feet tall and, because of time constraints, the landowners usually hired contractors to remove the berms. Mr. Purcell explained that there was usually a \$200 to \$250 fee for the contractor to show up at the site and then it usually took a full day for the contractor to remove the berms. The hourly cost would be the same whether it was considered light pushing or heavy excavation. He also reiterated that only about half of the waterways in these counties had terraces providing an outlet into them. Because of the long, uniform slopes in the area, much of the erosion could be controlled by conservation tillage measures rather than constructing extensive terrace systems. Because of this fact, many of the waterways were considered stand-alone practices.

Philip Luebbering was concerned that there seemed to be no check and balance on how many hours it might take a contractor to remove a berm. It seemed odd to him that, in most cases, the contractor billed for exactly the same amount as that

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estimated by the district. Mr. Purcell agreed that according to the information provided by program office staff, that essentially the work was being done and the cost-share was being calculated at a fixed price.

Elizabeth Brown stated that the issue of cost-share for berm removal was a matter of districts using their cost-share funds as they see fit unless the commission wanted to make an additional rule or regulation. Ms. Brown then thanked Mr. Purcell for his report.

4. Requirements for Landowner's Documentation of Actual Cost Incurred

Ron Redden reported on staff review of invoices and documentation of landowner costs in the implementation of state cost-share practices. Mr. Redden said that a fairly large number of claims were received in the spring of 2002 that included invoices either made out by the landowner or operator rather than actual invoices from the vendor that provided the materials. He said that, in many of the instances, it was difficult to determine whether the landowner's farm was separate from the business billing the materials. This determination had been made on the basis of whether or not taxes were being filed separately but this method had not proven to be effective. As a result, program staff requested that copies of actual paid receipts be provided unless the materials were billed under a business registered with the Secretary of State's Office. This method had the advantages of being verifiable over the Internet, easy landowner compliance, and is required by law if conducting business in this manner. Mr. Redden briefly reviewed the registration of a business name with the Secretary of State's Office.

According to Mr. Redden, landowners might not want to provide actual paid receipts for several reasons. The landowner might do similar work for others and not want the actual price he paid for materials to be public record. He could be waiting for the cost-share check to pay for materials. Another reason could be the desire to receive cost-share based on the county average costs rather than the actual cost.

Elizabeth Brown felt that this method would clarify the issue. In response to a question from the commission, Mr. Redden said that districts had been told that landowners should use items that do not have a paid receipt on something that is not a cost-share component. He also said that a practice was not considered started simply because a landowner had an item on hand and if they had not been altered. Harry Bozoian agreed that requiring a paid receipt was a very good way to document expenses.

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E. REQUESTS

1. District Assistance Section – Supervisor Appointments

a. Dent SWCD

LeAnn Bullard presented a request from Dent SWCD asking for the appointment of Mr. Dennis Purcell to complete the unexpired position of Mr. Ben Morgan who had resigned.

Philip Luebbering made a motion to approve the request. Kirby VanAusdall seconded the motion. When asked by the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted in favor of the motion. No opposition was voiced when called. The motion carried unanimously.

b. Cole SWCD

LeAnn Bullard reported that Cole Soil and Water Conservation District Board of Supervisors asked for approval of Mark Thompson to fill the remainder of the term of Roy Pittrich due to his death.

Philip Luebbering made a motion to approve the request. Larry Furbeck seconded the motion. When asked by the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted in favor of the motion. No opposition was voiced when called. The motion carried unanimously.

c. Washington SWCD

LeAnn Bullard reported that the Washington Soil and Water Conservation District Board of Supervisors asked for approval of Brenda Wurst to fill the remainder of the term of Bruce Woods as supervisor. Mr. Woods resigned as a result of non-compliance with the non-discrimination provisions of the working agreement between the district, NRCS, and the commission.

Larry Furbeck made a motion to approve the appointment of Ms. Wurst. Kirby VanAusdall seconded the motion. When asked by the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted in favor of the motion. No opposition was voiced when called. The motion carried unanimously.

LeAnn Bullard reported that the Washington Soil and Water Conservation District Board of Supervisors asked for approval of Martin Strauser to fill the remainder of the term of Jim Rollings as supervisor. Mr. Rollings resigned as a result of non-compliance with the non-discrimination

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provisions of the working agreement between the district, NRCS, and the commission.

Larry Furbeck made a motion to approve the appointment of Mr. Strauser. Philip Luebbering seconded the motion. When asked by the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted in favor of the motion. No opposition was voiced when called. The motion carried unanimously.

2. Land Assistance Section

a. Cost-share

1. Montgomery SWCD: Request for Reconstruction Due to Storm Damage

April Brandt presented a request from the Montgomery SWCD asking for cost-share assistance for reconstruction of three practices that failed due to heavy rainfall in May 2002 while still under maintenance agreements. The three practices consisted of two terrace systems with tile and one sod waterway practice. Ms. Brandt briefly reviewed commission policy.

The first terrace system was certified complete on August 30, 1996, and received \$6,111.37 in cost-share funds. The cost for reconstruction was \$900 and, if approved, would be eligible for cost-share funds in the amount of \$434.07. The district had stated that the landowner had already completed a lot of work and was not asking for cost-share assistance on that work.

The second terrace system was certified complete on October 23, 1995, and received \$14,095.21 in cost-share funds. The estimated cost of repair was \$1,303.80 and would be eligible for cost-share funds in the amount of \$977.85. Again, the landowner had completed a lot of the work and did not ask for cost-share assistance on that work.

Ms. Brand reported that the sod waterway was certified complete on September 21, 1995, and received cost-share in the amount of \$1,555.09. The estimated cost of repair was \$568.60 with an estimated amount of cost-share of \$426.47.

According to Farm Service Agency records, 11.3 inches of rainfall had been reported in May 2002. The damage to the practices was from heavy rain with isolated rains causing even more damage. Ms. Brandt said that the district received eleven reports of damage

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from the heavy rains in June 2002 and the district told the landowners to contact them after the crops were out in order to pursue cost-share assistance for reconstruction.

The district approved reconstruction applications for these three practices and submitted a claim on the first terrace system. Ms. Brandt said that program staff returned the claim to the district until the commission reached a decision. The district stated that it did not realize that the cost-share assistance for reconstruction had to be approved by the commission before the board could approve the application.

In response to a question from the commission, Ron Redden said that cost-share for reconstruction had been allowed when there was wide-spread storm damage and the county had either been approved for Emergency Conservation Program or if the board was able to document that it was a widespread occurrence. Ms. Brandt told the commission that the district did not realize that reconstruction had to be approved by the commission. Roger Hansen said that the District Conservationist had informed him the district had terrace reconstruction on its cost docket and thought that was sufficient for the board to approve the application. He said that staff had certified that reconstruction was needed and that it was not a maintenance issue. Ms. Brandt explained to the commission that the district had planned to appear before the commission to answer any questions but was unable to do so because of the weather. She also said that the district had approved the application on the waterway but had since told the landowner to hold up on any work until the commission had made a decision.

Philip Luebbering made a motion to approve the request for the three practices. Larry Furbeck seconded the motion. Larry Furbeck felt districts should have some type of penalty for not checking with program staff when something out of the ordinary would come up and consequently made the wrong decision. After restating the findings of the district and NRCS staffs as to the cause of the damage, Roger Hansen said that, considering there were 114 counties and 7,000 applications, errors on the part of districts amounted to a very small fraction of the total cost-share claims.

Mr. Furbeck asked to amend the motion to reflect a requirement that the funds to cover the amount of cost-share at issue would

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have to be taken out of next year's funds. The amendment was dropped when there was no second. A poll vote was taken. Elizabeth Brown and Philip Luebbering voted to approve the motion. Larry Furbeck and Kirby VanAusdall voted to oppose the motion. The motion was defeated by two votes in favor and two votes opposed to the motion.

2. Jasper SWCD: Request for Cost-share Assistance for Reseeding

April Brandt presented a request from Jasper SWCD for an exception to the reseeding policy. She briefly reviewed commission policy.

Ms. Brandt reported that the DWP-3 practice was certified complete on May 30, 2000. At the landowner's expense, the practice was reseeded in the spring of 2001 and 2002 because the district did not have any cost-share funds available. According to the district, the landowner needed to remove the berm but the NRCS technician had recommended another reseeding to establish the waterway so it could properly carry water. Ms. Brandt said that the waterway experienced long dampness because of the soil type and the area where it was located. For this reason, the technician recommended reseeding with Red Top seed and felt this would take care of the problem. The landowner originally received \$1,236.09 in cost-share funds. The district estimated the reseeding would cost \$173.05 with an estimated cost-share of \$129.79.

Larry Furbeck thought that normally it was dry conditions that kept a landowner from getting a good stand of grass. In response to a question from the commission, April Brandt reported that the district said that the NRCS technician had been the one to recommend a reseeding because of the type of soil and the damp weather.

Larry Furbeck made a motion to deny the request. Philip Luebbering seconded the motion. When asked, Ms. Brandt reiterated that the landowner had paid for the two previous reseedings because there were no cost-share funds available. A poll vote was called. Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted for the motion. Elizabeth Brown voted in opposition to the motion. The motion carried with three votes in favor and one vote against.

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b. SALT

1. Stoddard SWCD: Practice Started before Board Approval

Kevin Scherr presented a request from the Stoddard SWCD for cost-share for a practice started prior to board approval because the landowner believed all of the required paperwork had been completed. According to the district, the landowner thought he had applied for both the nutrient and the pest management incentive practices. Mr. Scherr reported that district staff determined that the nutrient management application was overlooked in the crunch of applications completed last spring. Mr. Scherr briefly reviewed the nutrient management practice.

Philip Luebbering made a motion to approve the request. Kirby VanAusdall expressed concern with the length of time that had passed before this request was made. Kevin Scherr explained that nutrient management practice began in the spring and completed in the fall. In this case, the landowner went to the district in October to fill out the claim for cost-share. The district realized at that time that there was no application. Larry Furbeck seconded the motion.

When asked, Mr. Scherr said that, based on the letter from the district, the landowner thought he had completed all of the appropriate paperwork. He had applied for both nutrient and pest management practices; however, all of the paperwork was in place for the pest management practice but not the nutrient management practice. Mr. Scherr agreed with Ms. Brown that, according to the district letter, the district clerk accepted responsibility for the error. When asked by the chair, Elizabeth Brown, Larry Furbeck, Philip Luebbering, and Kirby VanAusdall voted in favor of the motion. No opposition was voiced when called. The motion carried unanimously.

F. NEW BUSINESS – BEN REED REGARDING PRACTICES STARTED PRIOR TO BOARD APPROVAL

Ben Reed representing the District Employees Association appeared before the commission to express his concerns regarding the commission's past discussion on district errors in the cost-share process. Mr. Reed felt that one explanation for the errors was the large number of new, non-traditional, landowners. However, he said that traditional landowners also made errors. He pointed out that the commission's appeal process handled less than one percent of the cost-share claims and that the chances of error were magnified because of the number of people involved in the process from the cost-share application to claim.

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Mr. Reed also felt that the amount of information that a new district employee had to learn had an impact. He reported that the Employees Association was in the process of establishing a mentoring program for any new district employees; however, this program was not intended to replace the formal training provided by program office staff. It was to simply be a second-line of assistance. He said the goal was to have two mentors in each area.

He pointed out that there would always be an appeal process. Mr. Reed said that the Employees Association opposed having a monetary penalty for errors. If there was a repetitive problem, the commission had the option of denying any portion or all of a claim. He felt that other commissions could misconstrue the intent of a penalty policy in the future. He also felt that the Landowner Certification Sheet would only add to the confusion. Mr. Reed pointed out that the last statement on the cost-share application warned that the practice is not to be started prior to approval.

Mr. Reed suggested that districts with a lot of errors be ineligible for any additional cost-share funds. Another suggestion was to reward districts that were doing well with such things as the first opportunity to get any additional cost-share funds. The Employees Association thought that closer contact between the commission and the district boards would be advisable. This would allow a communication that could be for both bad and good issues. Larry Furbeck said that the commission had wanted to get input from the districts on this issue and thanked Mr. Reed for the thoughts and ideas he expressed. Mr. Reed provided the commission with a copy of his comments on the issue.

G. ELECTION OF OFFICERS

Dave Baker opened the floor for nominations for the position of Chair of the commission. Larry Furbeck nominated Elizabeth Brown. Kirby VanAusdall made a motion to close the nominations. Philip Luebbering seconded Mr. VanAusdall's motion. The motion passed unanimously.

Mr. Baker opened the floor for nominations for the position of Vice-chair of the commission. Larry Furbeck nominated Kirby VanAusdall. Philip Luebbering seconded the nomination. Elizabeth Brown nominated Larry Furbeck. Kirby VanAusdall seconded the nomination. Larry Furbeck and Philip Luebbering voted for Kirby VanAusdall and Elizabeth Brown and Kirby VanAusdall voted for Larry Furbeck.

Due to the tie vote, the commission called for a toss of the coin. With a call in the air of tails by Mr. VanAusdall, Larry Furbeck won the toss.

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H. MASWCD REPORT

Eli Mast reported that the association would be representing Missouri at the National Association of Conservation Districts Annual Conference in Orlando, Florida. The conference will be held February 9 through 13.

The MASWCD Educational Seminar in Jefferson City will be February 18 and 19. Mr. Mast was not aware of any urgent bills pending. The main challenge for the association was the education of the new legislators. On February 18, a meeting is scheduled at the Capitol Plaza Hotel to go over the issues. On the morning of February 19, a meeting room is reserved at the Capitol where the attendees will be visiting with legislators.

I. STAFF REPORT

The commission was provided with copies of *Missouri Resources* that contained articles on the Last Acre Ceremony and on soil education activities along with a publication from the Brookings Institute titled *Growth in the Heartland – Challenges and Opportunities for Missouri*.

Sarah Fast said that Steve Mahfood was unable to attend the meeting. He had wanted to review general budget issues. She said that DNR had to make several cuts because of the decline in general revenue funds. The soil and water program was not directly impacted by the cuts, since it was funded entirely by the Soils Sales Tax. Ms. Fast reported that the main impacts on the program were that out-of-state travel requests were under more intensive scrutiny, no raises for state employees, and the car fleet was to be cut by ten percent. She also reported that the department was under a hiring freeze, which was partly due to offsetting the positions that were being cut.

Milt Barr updated the commission on the Soil Sales Tax revenue for the first half of FY2003. Mr. Barr reported that the average rate of change increase through December was 2.43 percent over the same period from last year. He said that, while not robust, positive increases were being maintained. Therefore, the program's budget planning was still on target with projected allocations and expenditures for the fiscal year.

Out of two matters that had been referred to the Attorney General's Office, Harry Bozoian reported that one had been resolved and the other was close to being resolved.

J. DATE OF NEXT MEETINGS

The date of the next commission meeting was set for Thursday, March 6, 2003, beginning at 8:30 a.m. in the Bennett Spring/Roaring River Room at the DNR Conference Center in Jefferson City, Missouri. There was no meeting suggested for the month of April. The May meeting was tentatively scheduled for Wednesday, May 21, 2003, in Jefferson City, Missouri.

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K. ADJOURNMENT

Kirby Van Ausdall moved the meeting be adjourned. Philip Luebbering seconded the motion. Motion approved by consensus at 2:00 p.m.

Respectfully submitted,

Sarah E. Fast, Director
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman
Missouri Soil & Water Districts Commission

/as